

Application No.: 09/927,972

Amendment dated: 11/30/05

Reply to Office Action mailed: 08/02/05

Remarks/Arguments

In response to the detailed action mailed August 2, 2005, Applicants respectfully traverse and request reconsideration of the rejection of Applicants' claims under 35 U.S.C. 102 and under 35 U.S.C. 103.

The rejection of Applicants' claims 1-14 under 35 U.S.C. 102(e) as anticipated by Iliff, U.S. Publication 2001/0029322A1 published October 11, 2001 on behalf of Edwin C. Iliff (Iliff) is respectfully traversed and reconsideration is respectfully requested.

Applicants' claimed invention is a system and method for entering data obtained by a health care professional by observation, testing, examination and the like of a patient, for instance, in an emergency room situation where it is desirable to enter data accurately, quickly and retrievably. The data is used for further treatment and may be combined with other data entered by other health care professionals to form a complete record of the patient's location, history, symptoms, treatments-to-date and the like.

No attempt is made to prescribe patient treatment using Applicants' claimed system and method. By contrast, Iliff is directed to a computerized medical diagnostic and treatment advice system, including network access by the patient. This is radically different than Applicants' claimed method which stores and retrieves data for use by a health care professional in the treatment of a patient. Iliff is directed toward requiring input from the patient in response to a plurality of questions to attempt to fit the patient into a selected illness or malady for which the computer may then prescribe a treatment. Iliff's invention is an attempt to use the expertise of a relatively small number of medical experts to provide a database to a computer so that the computer may diagnose and treat patients, thus bypassing the need for a doctor. This is radically different from Applicants' claimed invention which provides a method for entry and retention of data obtained by health care professionals during the treatment of a patient.

Particularly the Examiner states that Iliff teaches the use of a plurality of templates, showing a plurality of relevant inquires and capable of accepting yes/no data

Application No.: 09/927,972

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entries by a user with the templates being accessible on a workstation. These entries are made by a patient, not by a medical professional.

In support of his position, the Examiner has pointed to paragraph 0136 which discusses the interaction with the patient in answering a plurality of questions. Each question apparently suggests to the computer a second question or subsequent question for the patient. The Examiner also refers to paragraph 0703 which indicates that as the user proceeds through a diagnostic process, information on the user's medical condition is communicated to the MDATA system by completing or answering screen-displayed forms or pointing at an item on the display and clicking with a mouse. The diagnostic process retrieves data from the patient and other MDATA data bases and stores the patient response via a common gateway interface script language utility. This is radically different than the use of forms which include a plurality of items of information which can be indicated by a yes/no response quickly by a physician or other health care professional by simply striking through or indicating on a computer that the particular item is applicable.

Further there is no suggestion in Iliff that sub-templates might be used and in no instance is there any suggestion that a physician or other health care professional would observe or otherwise obtain and enter this data. There is no suggestion in paragraph 0703 that the patient in any way has any choice in the selection of the particular screen or items which the patient is requested to answer. By contrast, the health care professional entering data into Applicants' system selects the database which is applicable to the particular situation present with the particular patient.

The Examiner has opined that Iliff shows that detailed inquiries on at least a portion of templates and at least a portion of specific sub-templates showing more detailed inquiries are available, as shown in FIG. 2 at items 2592 and paragraphs 0274 through 0285. This materials has been reviewed and there is no suggestion therein that templates of any type are used. The patient who identifies himself as suffering from a headache will be asked questions which are designed to determine how significant the

Application No.: 09/927,972

Amendment dated: 11/30/05

Reply to Office Action mailed: 08/02/05

problem may be. The computer then determines which additional questions should be answered and the example of "Problems Screening Question" for headache is recited in paragraph 0276 as a single sentence question. A follow up question is recited in paragraph 0281 and is also a single question. These are not templates. There is no suggestion in this material that any template should be used or that any modifiers are used.

The Examiner's position that a retrieval data base for storing and retrieving entered data and a language problem accessible by the workstation are shown by Iliff is noted.

With respect to claim 1, it is noted that Applicants' claims as presently amended require that the system is a system for entering data obtained by at least one of observation, testing or examination of a patient by a health care professional. This limitation appears in paragraph 1(a). Applicants' claims require that data is obtained by a health care professional. This is radically different than the disclosure in Iliff and results in a radically different use of computer components.

Many of these computer components are well known for their specific individual functions and no novelty is claimed in the specific computer components used except as used in the claimed combination. Applicants' claimed invention, as stated previously, is directed to the collection, entry and storage of data obtained by health care professionals with respect to a particular patient for use to determine and make a record of the patient's condition, previous treatments, patient history and other matters relevant to treatment of the patient. Similar considerations apply to Applicants' dependent claims and claim 29.

The Examiner's arguments with respect to Applicants' claim 2 are substantially the same as discussed in connection with claim 1 and are not effective to show either claim 1 or claim 2.

The remaining detailed rejections are directed primarily to attempts to show specific instances of the use of specific computer components and are not considered to show or suggest Applicants' claims as presently amended. Applicants' dependent claims

Application No.: 09/927,972

Amendment dated: 11/30/05

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include the limitations of claim 1 and since these limitations have not been met, none of Applicants' dependent claims are considered to have been shown or suggested by the recited specific portions of Illiff.

Accordingly it is respectfully submitted that none of Applicants' claims 1-14 have been shown or suggested by Illiff under 35 U.S.C. 102(e).

The rejection of Applicants' claims 15 and 17 under 35 U.S.C. 103 as unpatentable over Illiff, in view of Florance, et al, U.S. Patent 6,871,140 issued March 22, 2005 (Florance, et al) is respectfully traversed and reconsideration is respectfully requested. Claims 15 and 17 are not considered to be shown by Illiff, as discussed above. Florance, et al has apparently been recited to suggest that one line or multi-line reports might be used to report the data. Such systems are well known to those skilled in the art, as disclosed in Florance, et al. The use of these systems is not claimed alone but rather is claimed in combination with the remaining elements of Applicants' system and the remaining steps of Applicants' method. There is no suggestion that the system and method used by Applicants for the entry of data by medical professionals could or should be used.

The combination of Florance, et al and Illiff does nothing to show or suggest Applicants' invention. In fact, it appears highly doubtful that these references are combinable since one relates to real estate data and the other relates to medical advice provided to a patient via electronic systems.

It is respectfully submitted that neither of these references taken alone or in combination shows or suggests Applicants' claims 15 and 17 under 35 U.S.C. 103(a).

The rejection of Applicants' claims 27 and 28 under 35 U.S.C. 103(a) as unpatentable over Illiff, in view of Ericson, U.S. Publication 2002/0050982, (Ericson) is respectfully traversed and reconsideration is respectfully requested.

Application No.: 09/927,972

Amendment dated: 11/30/05

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Ericson is apparently applied to show that click/tap data entries can be used and the Examiner has stated, apparently of his own knowledge, that using back slashes for a negative response is well known in the art. It is respectfully submitted that if this position is maintained the Examiner should submit a reference or an affidavit so showing. In any event, the method of entering the data is not claimed alone and when used in combination with the other elements of Applicants' system or method, the combinations are not shown or suggested by any of the references.

Ericson is not considered to show or suggest the use of forms, such as used by Applicants, which are capable of receiving entries of yes/no data obtained by observation, testing or examination of a patient by a health care professional. These forms, as disclosed in Applicants' specification, are relatively specifically designed to enable a health care professional to enter data quickly and efficiently for storage and retrieval in conjunction with other patient information to facilitate the treatment of a patient. Nothing in Ericson suggests that this could or should be done.


Claims 29-31 have been rejected on the same grounds as the other claims and are respectfully submitted to be patentable for the reasons discussed in conjunction with the other claims.

In summary, Applicants' claimed invention is directed to a system for entering data obtained by a health care professional, such as a doctor, by observation of a patient by yes/no entries on templates specifically designed for the quick, efficient and accurate entry of information with respect to a patient. The system is also capable of producing a language report so that users may more readily absorb the information recorded on the templates. The templates are also designed with specific modifiers for particular conditions so that detailed information may be equally conveniently entered with respect to a particular patient. This system is not designed to, and does not purport to, deliver medical advice directly to a patient.

Accordingly, it is respectfully submitted that none of the references cited, taken alone or in combination, have shown or suggested any of Applicants' claims as presently amended.

According, it is respectfully submitted that Applicants' claims are now in condition for allowance and such is respectfully solicited.

Respectfully submitted,


F. Lindsey Scott
Registration No. 26,230
972.599.2888
Attorney for Applicant(s)

2329 Coit Road
Suite B
Plano, TX 75075-3796